

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DeEARL FOSTER,
Petitioner,
v.
ALDANA RAMIREZ, et al.,
Respondents.

No. 2:24-cv-2800 WBS AC P

FINDINGS AND RECOMMENDATIONS

Petitioner, a state prisoner proceeding without an attorney, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On October 28, 2024, this court filed an order requiring plaintiff to submit, within thirty days from the date of the order, either an affidavit in support of his request to proceed in forma pauperis or the appropriate filing fee. ECF No. 3. Petitioner was warned that failure to comply with the order would result in a recommendation that the case be dismissed. Id. at 1. This order was mailed to petitioner's address of record—at High Desert State Prison ("HDSP"). Id.

On November 25, 2024, the October 28, 2024 order was returned as undeliverable, noting plaintiff was no longer in custody. On December 5, 2024, because the California Department of Corrections and Rehabilitation inmate locator indicated petitioner was still incarcerated at HDSP, the October 28, 2024, order was re-served on petitioner at the address of record. On December 9,


2024, and December 17, 2024, the order was again returned as undeliverable.

It appears that petitioner has failed to comply with Local Rule 182(f), which requires that a party appearing in propria persona inform the court of any address change. Despite petitioner's failure to update his address, service of the October 28, 2024, order at the address of record for petitioner is deemed fully effective, and he is therefore expected to comply with that order. See L.R. 182(f). More than sixty-three days have passed since the court's October 28, 2025, order was returned by the postal service, and petitioner has not notified the court of a current address or complied with this court's October 28, 2024, order.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed for without prejudice for failure to prosecute, see L.R. 183(b), and failure to comply with this court's order, see L.R. 110.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any response to the objections shall be filed and served within fourteen days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

DATED: February 13, 2025


ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE